

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OSCAR RAMIREZ, JAVIER GUERRERO,
GERONIMO HERCULANO, PABLO RUTILIO,
MAGGIE ANDRES CRECENCIO, GUILLERMO ALVAREZ,
JUANA CRUZ HERNANDEZ, LEONIDAS MATEO,
ANYELI OVALLES HERNANDEZ, MIRNA REYES
MARTINEZ, RAMON ROSARIO, OMAR TAVERAS,
LUIS ESPINAL, and JUAN SALMERON on behalf of
themselves and others similarly situated,

No.: 14 -cv- 4030

Hon. Valerie E. Caproni

**AFFIDAVIT OF GERONIMO
HERCULANO IN SUPPORT OF
PLAINTIFFS' REQUEST FOR
CONDITIONAL CLASS
CERTIFICATION**

Plaintiffs,

v.

M L RESTAURANT, CORP., M.L. SAN JOSE ENTERPRISES, CORP.,
d/b/a LIBERATO RESTAURANT, ANTONIO MANUEL LIBERATO,
FERNANDO LIBERATO, VICTOR LIBERATO, NELSON GOMEZ,
LUCY GOMEZ, SARAH VALLEJO, NANA (LNU), and ROMEO (LNU)
jointly and severally,

Defendants

-----x
State of New York)
) ss.:
County of New York)

GERONIMO HERCULANO, residing at 2324 Maurice Ave. Bronx, New York, being
duly sworn, deposes and says:

1. Since 2007 I have been employed by Liberato Restaurant as a fryer operator, dishwasher, and rice cook.
2. Liberato Restaurant is an establishment with locations at 1 West 183rd St. and 10 West Burnside Avenue, County of the Bronx, State of New York.
3. I have worked at both locations and at present I work at the 183rd Street location.

4. There are more than forty (40) employees in the 1 West 183rd St location, of which approximately six (6) are fryers, cooks, and dishwashers. When I last worked at the Burnside location in 2008, there were close to fifty (50) employees, of which approximately eight (8) were fryers, cooks, and dishwashers. Many workers came in and out of these kitchens, staying for only a short time

5. I regularly worked nine and a half (9.5) hours a day, six (6) or seven (7) days per week, and was paid in cash at the end of each week.

6. From on or about June 4, 2008 to on or about July 23, 2009 I was paid \$360 for fifty-seven (57) hours worked, and \$420 for sixty-six-and-one-half (66.5) hours worked per week.

7. From on or about July 24, 2009 to on or about December 31, 2012, I was paid \$410 for approximately fifty-seven (57) hours worked and \$480 for approximately sixty-six-and-one-half (66.5) hours worked per week.

8. From on or about January 1, 2013 to the present I was paid \$450 for approximately fifty-seven (57) hours worked and \$525 for approximately sixty-six-and-one-half (66.5) hours worked per week.

9. Often I was required to stay late after my shift if customers came in as we were closing, but I received the same pay as if I had left on time. All the workers on the shift were subjected to this treatment.

10. Throughout my time at Liberato, I worked without breaks and if I want to eat, I must to eat while working. This situation continues up to the present. I have never seen any kitchen staff take breaks.

11. I never received overtime for hours worked in excess of forty (40) per week, nor did my coworkers and believe this is typical of the workplace.

12. Since I began to work at Liberato I have never received a statement of wages. I believe this is true of all my coworkers.

13. Since 2012 I have been required to sign in a book in order to receive my pay. The book states only workers' names, days worked and pay received, but not the hours worked. After signing I am given no records to keep.

14. I have reason to believe that my coworkers and I are subjected to similar treatment.

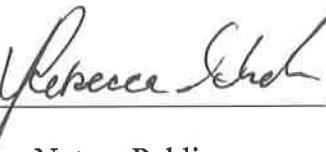
WHEREFORE, it is respectfully urged that the request for conditional certification of a representative class be granted.

Sworn to before me this



GERONIMO HERCULANO

28 day of September 2014.



Notary Public

REBECCA T. ISHAK
Notary Public, State of New York
No. 01IS6286012
Qualified in Queens County
Commission Expires July 22, 2017